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Technical assistance and capacity-building

Human rights situation in South Sudan

Report of the United Nations High Commissioner for Human Rights*

Summary

The present report is submitted pursuant to Human Rights Council resolution 26/31, in which the Council requested the United Nations High Commissioner for Human Rights to monitor the human rights situation in South Sudan and to report thereon to the Council at its twenty-eighth session, with recommendations on technical assistance and capacity-building measures, including on human rights education to overcome challenges in the area of security, and on accountability and transitional justice.

The present report was prepared in cooperation with the United Nations Mission in South Sudan (UNMISS) and covers the period from 15 August to 15 December 2014. At the Council's twenty-seventh session, in September 2014, the High Commissioner submitted a report on the situation of human rights in South Sudan covering the period from 8 May to 8 August 2014 (A/27/69).

The situation of human rights in South Sudan remained of serious concern during the reporting period. Civilians continued to bear the brunt of the ongoing armed conflict and of their leaders' failure to stop the fighting. While the scale and severity of the conflict declined, the number of civilians displaced across the country continued to rise, with no likelihood that people would be able to return to their homes in the near future. UNMISS continued to receive reports of human rights violations and abuses, as well as violations of international humanitarian law, including the killing and wounding of civilians by all parties to the armed conflict. Incidents of conflict-related sexual violence also continued to be reported, not only in the context of the hostilities between the main belligerents, but also

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of cyclical intercommunal clashes. Reports were further received of the large-scale recruitment of children, the military use and occupation of schools and hospitals, and other grave violations and abuses perpetrated against children.

Restrictions on freedom of expression also characterized the human rights situation. Incidents of harassment of members of civil society, detention of journalists, confiscation of newspapers and closure of radio stations by government officials continued to be reported regularly.

The administration of justice remained problematic, characterized by a large number of arbitrary arrests, detentions without charge or trial, and a lack of fair-trial guarantees. Those challenges, resulting from capacity deficits, lack of resources and lack of political will, have been exacerbated by the conflict. UNMISS also continued to receive allegations of torture and ill-treatment in custody. In some cases a strong security response to incidents of intercommunal violence has led to violations of the rights of suspects and civilians.

Lack of accountability for human rights violations and abuses committed during the conflict remains of serious concern. With regard to numerous allegations of serious violations and abuses of human rights and humanitarian law committed since the outbreak of violence in December 2013, accountability measures taken by national actors have been few and inadequate. While the Government has acknowledged that violations have been committed and has established several accountability measures, there are serious concerns as to whether such measures meet international standards, including of due process, independence and transparency.

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I. Introduction

1. In its resolution 26/31, the Human Rights Council expressed its deep concern at the human rights situation in South Sudan and at reports of atrocities committed since the outbreak of violence on 15 December 2013, including direct targeting of civilians and mass displacements, and allegations of recruitment and use of child soldiers, widespread incidents of arbitrary arrests and detention, and sexual violence. The Council thereafter requested the High Commissioner, as a matter of urgency, to monitor the situation of human rights in South Sudan and to report to it during its twenty-eighth session.

2. This report presents an overview of the human rights situation in South Sudan since the High Commissioner's last report to the Human Rights Council, in September 2014. It outlines some of the allegations of human rights violations and abuses and serious violations of international humanitarian law received by the UNMISS Human Rights Division between August and December 2014, and provides an analysis of the human rights trends in that period. Some specific allegations are highlighted, with a focus on extrajudicial killings, conflict-related sexual violence, children and armed conflict, the administration of justice and freedom of expression.

3. UNMISS has been monitoring the human rights situation in South Sudan, as mandated by the Security Council. The Office of the United Nations High Commissioner for Human Rights works with UNMISS pursuant to a joint policy with the Department of Peacekeeping Operations of the United Nations on human rights in peace operations, providing guidance and technical support on human rights monitoring and investigations methodology. The UNMISS Human Rights Division continues to encounter security and logistical challenges that prevent the full verification of all the allegations it receives.

II. Context and developments

A. Security developments

4. Despite the agreements on cessation of hostilities signed in January and May 2014, the two parties to the conflict continued to engage in sporadic military confrontations. Fighting persisted throughout the reporting period, particularly in the three Upper Nile states of Jonglei, Upper Nile and Unity. Overall, the military positions of both sides remained the same, with government forces maintaining control of all the state capitals and strategic towns while opposition forces have been in control of outlying areas in parts of Upper Nile and Unity States, and northern Jonglei.

5. Unity State remained the most affected by the conflict. The overall security situation in the State remained volatile due to the close proximity of the Sudan People's Liberation Army (SPLA) and the Sudan People's Liberation Movement/Army (SPLM/A) in Opposition forces. While SPLA remained in control of the State capital, Bentiu, and most of the Unity oilfields, that control remained tenuous. The Government has little control over the southern counties in Unity State and there have been frequent skirmishes in areas outside Bentiu.

6. Next to Unity State, Upper Nile State, with its oil resources, also remained affected by the conflict. While Malakal remained under government control, the security situation has remained volatile amid repeated clashes between SPLA and SPLM/A in Opposition forces, particularly in Nassir and Renk counties. Recurring opposition attacks on government forces have continued near the Paloch oilfield, which remained under the control of government forces. There have also been confrontations in Maban county

between SPLA and the Maban Defence Force, a local pro-SPLA armed group, reportedly due to the local armed group's reluctance to be integrated into SPLA. The situation in Malakal has remained tense, amid fears that opposition forces might advance towards the town from northern Jonglei, and there were also reports of internal tension within the government forces in Malakal.

7. In Jonglei, while the situation in Bor, the capital, remained calm, the security situation has deteriorated in the northern section of Ayod and Duk counties. There have been reports of heavy fighting between SPLA and SPLM/A in Opposition in Ayod, which remains under SPLA control. SPLA and SPLM/A in Opposition also reportedly clashed in Fangak and Pigi counties in the north-western part of the state between the end of November and early December 2014, resulting in the displacement of thousands of civilians.

8. While the conflict has been largely contained within the north-eastern part of the country in Unity, Upper Nile and Jonglei, there are worrying signs that violence may be spreading to other parts of the country, including the Greater Bahr el Ghazal and the Greater Equatoria regions. In Western Bahr el Ghazal, reports of aerial bombardments in Raga county in November 2014 raised concerns regarding the increasing regional dimensions of the conflict. Reports also indicate that the Justice and Equality Movement, the Sudan People's Liberation Movement-North (SPLM-North) and other non-South Sudanese militia groups have been involved in fighting in the region. In Eastern Equatoria, following the killing of an SPLA soldier, SPLA soldiers attacked the village of Chukudum in Budi county, from 6 to 7 October, resulting in the displacement of more than 200 people. In central Equatoria, internal SPLA fighting in Juba and Yei around the end of September reportedly resulted in the death of seven SPLA soldiers.

B. Protection of civilians

9. While the scale and severity of the fighting have decreased, the conflict continues to take a heavy toll on civilians, with targeted attacks based on ethnicity and large-scale displacements. Reports of gross human rights violations and abuses and violations of international humanitarian law against civilians by all sides remain widespread. They form part of a now familiar and disturbing pattern in which civilians are targeted and killed during hostilities for perceived or actual affiliation with a group different to the armed element in control. While this targeting has often been on the basis of ethnicity, the abuses described in the present report demonstrate that the animosity has reached deeper into communities, with a growing expectation that everyone must choose sides.

10. By December 2014, more than 1.4 million South Sudanese had been displaced internally, and approximately 467,000 people had fled to surrounding countries. Additionally, roughly 4 million people in the country faced serious food insecurity. Humanitarian access continued to be hampered by fighting and violence perpetrated by both parties to the conflict against aid workers, equipment and infrastructure. In Unity and Upper Nile States, active hostilities and insecurity continued to disrupt humanitarian assistance as well as road and air access.

11. By mid-December 2014, more than 100,000 civilians had been housed in UNMISS compounds — designated "protection of civilians sites" — because they were too afraid to return home, fearing potential violence. The bulk of those internally displaced persons were in Bentiu (43,000 people), Juba (32,000) and Malakal (17,000). Some of the protection of civilians sites in low-lying flood-prone areas had already experienced flooding during the rainy season, with a significant impact on residents' living conditions, health and sanitation. UNMISS expanded the camps to accommodate the influx of more civilians and enhanced

security in and around those sites. New facilities were built in Juba, Malakal and Bor to address overcrowding and unsanitary conditions in the camps.

12. Incidents of violence in and around the UNMISS protection of civilians sites remained of serious concern. Very often violence was perpetrated against internally displaced persons and humanitarian and UNMISS personnel; it stemmed from intercommunal tensions, increasing community leadership struggles, youth radicalization and the use of drugs and alcohol. In some areas, SPLA activities around the sites created an extremely intimidating atmosphere for civilians and posed serious restrictions on the freedom of movement of the internally displaced. For example, in Bentiu, SPLA soldiers took aggressive postures towards civilians in the protection of civilians site. On 30 September 2014, UNMISS witnessed approximately 20 SPLA soldiers in uniform, including child soldiers, wielding their weapons outside the entrance of the site. They also had a vehicle mounted machine gun.

13. UNMISS continued to face challenges in maintaining the civilian character of the sites, with both sides accusing the mission of supporting the opposite side and harbouring deserters inside its compounds. In Juba, UNMISS received reports that Nuer civilians had been arrested and detained by the SPLA forces on suspicion of being deserters, with some civilians alleging torture and ill-treatment.

C. Intercommunal violence

14. The conflict also seems to have aggravated intercommunal violence, with a devastating impact on the human rights situation, particularly in Lakes, Eastern and Western Equatoria States, and within the UNMISS protection of civilians sites. In Lakes State, intercommunal conflict among different Dinka clans has continued despite efforts by the Government and State authorities to defuse tensions. Revenge attacks, including acts of sexual violence, continued in relation to the killing of a paramount chief in Cuei-Chok Payam on 5 August 2014. In response to the violence, the Government has increased its security presence in the State. However, this has given rise to further violations as a result of the heavy-handed measures sometimes adopted by the security forces.

15. Eastern Equatoria has also witnessed major incidents of intercommunal violence, including on 6 December 2014, in Loronyo, Torit county, where several civilians, including women and children, were killed. Reports received indicated that human rights violations, including sexual violence and looting of property, were committed by security forces sent to the area in response to the violence. Likewise, the deterioration in the security situation in Chukudum in Budi county, Eastern Equatoria, in September and October, led to allegations of human rights violations by SPLA, including arbitrary detention, torture and extrajudicial killings.

16. In Western Equatoria, the influx of armed Dinka pastoralists from Lakes and Jonglei with their large numbers of cattle has caused an increase in tension with host communities, particularly in areas in Mundri West county. In Central Equatoria State, UNMISS monitored developments in clashes between the Kuku and Madi communities spanning the border between Kajo Keji county in South Sudan and Moyo district in Uganda, resulting in several deaths in both communities and the displacement of between 8,000 and 10,000 civilians from the Ugandan side to the South Sudanese side of the border.

D. Peace process

17. Despite intense international pressure, very little progress was made towards a political resolution of the conflict. The sixth round of the Intergovernmental Authority on

Development (IGAD)-mediated negotiations in Ethiopia concluded on 5 October 2014 after exhaustive discussions between the parties on the form of the proposed transitional government of national unity and the roles and responsibilities of participants in such a government. While the President, Salva Kiir, and the rebel leader, Riek Machar, agreed to form a transitional government of national unity in their 9 May cessation of hostilities agreement, both have yet to make the compromises necessary for this to happen. Following an IGAD Heads of State and Government summit in Addis Ababa in November, the parties were granted 15 days to consult with their constituents on the structure of the transitional government.

18. On 24 November 2014, the Government organized a national delegates' conference in Juba to discuss the IGAD negotiations. The delegates concluded that executive power during the transition period should consist of an executive president, a vice-president and a non-executive prime minister. In early December, SPLM/A in Opposition organized its consultative conference in Upper Nile State and affirmed that the transitional government should have a president as the ceremonial head of State, and an executive prime minister. As at December, there was still no agreement between the two parties on the composition of a transitional government. The Government has affirmed its intention to proceed with elections scheduled for June 2015 if there was a failure to reach a peace agreement.

19. The parties opened a parallel negotiating track in Arusha, United Republic of Tanzania, where an intra-SPLM dialogue was held from 12 to 18 October 2014. The negotiations involved representatives of SPLM, SPLM/A in Opposition and SPLM former detainees (high-level SPLM officials who had been detained by the Government, but had subsequently been released). On 20 October, the various SPLM factions signed a framework agreement committing themselves to intra-party democracy, reconciliation and healing. In an accompanying communiqué, the parties acknowledged a collective responsibility for the crisis in South Sudan and said that the crisis must be urgently brought to an end by the SPLM leadership through genuine and honest dialogue. The framework document made it clear that the Arusha process was separate and distinct from the IGAD mediation, but recognized that the two processes were mutually reinforcing.

E. Legislative developments

20. During the reporting period, several steps were taken towards the development of a legal framework supporting the promotion and protection of human rights. The National Legislative Assembly passed a bill for the ratification of the International Covenant on Civil and Political Rights and the African Charter on Democracy, Elections and Governance. On 3 September 2014, the Assembly ratified the Convention on the Elimination of All Forms of Discrimination against Women, and on 1 October it ratified the African Charter on the Rights and Welfare of the Child. However, the instruments of ratification have not been deposited with the United Nations.

21. On 8 October 2014, the National Legislative Assembly approved the national security bill which, if enacted into law, would give security forces wide-ranging authority to detain and arrest people without safeguards of due process. The bill was pending review and awaiting presidential assent amidst concerns regarding its compatibility with the Transitional Constitution of the Republic of South Sudan, 2011. Three media laws adopted by the Assembly in November 2013, reportedly to shield media practitioners from harassment, censorship and intimidation, were signed into law in November 2014.

III. Overview of alleged human rights violations and abuses and violations of international humanitarian law

A. Extrajudicial killings

22. During the reporting period, while the intensity of fighting decreased, UNMISS continued to receive reports of human rights violations and abuses, including killings of civilians by parties to the conflict. Reports of killings of civilians by SPLM/A in Opposition in Renk county, Upper Nile State, in September 2014, and in Bentiu, Unity State, in October, were particularly alarming. Intercommunal violence has also escalated as a result of the conflict, with serious incidents resulting in the killing of civilians. Besides the tension between SPLA and the opposition forces, the proliferation of armed groups, such as the Maban Defence Force, and the reported resurrection of the White Army, posed additional threats to civilians.

23. In Renk county, Upper Nile State, reports indicated that civilians were allegedly killed by opposition forces in connection with hostilities that took place in September 2014. UNMISS received allegations that up to 83 individuals might have been killed during the attacks, but was unable to confirm the reports owing to security constraints in the area.

24. In Bentiu, Unity State, at least 11 civilians were reportedly killed by opposition forces when they tried to retake control of the city from the Government on 29 October 2014. Reports also indicated that civilians were deliberately targeted because of a perceived association with government forces. In one instance, 14 men were taken from a church, where they had sought sanctuary, and walked to a nearby cemetery, where at least eight of them were shot and killed, two were wounded, while four remained unharmed. In another incident during the attack, two women and a baby were killed in their homes.

25. On 12 December 2014, a group of traders were reportedly attacked by SPLA in Tharwangiyel, Unity State, and several civilians were killed. Preliminary investigations by UNMISS indicated that at least 53 civilians, including women and children, who were travelling along a trade route from the Sudan to villages south of Bentiu, in an SPLA-controlled area, were attacked during the evening; up to eight civilians were killed, including a woman and a girl, nine were wounded and 15 were detained by SPLA. UNMISS has not been able to verify whether the traders were all civilians or whether there were SPLM/A in Opposition fighters among them.

26. The conflict also appears to have fuelled intercommunal violence, which has resulted in a large number of killings. In Lakes State, the killing of a paramount chief in August 2014 provoked retaliation attacks between Dinka groups that degenerated into a cycle of revenge killings and rape. For example, tensions increased in Cueibet county on 12 September following the ambush and killing of five Dinka Agar persons, reportedly by a rival Dinka Gok clan.

27. In neighbouring Jonglei, two incidents of age-set fighting among the Murle in Gumuruk and Likuangole counties reportedly resulted in the killing of at least four persons in attacks and reprisals. An SPLA presence intended to contain tensions between the Buya and Didinga communities also reportedly caused conflict. UNMISS received reports that on 7 October 2014 in Chukudum, Budi county, in Eastern Equatoria, SPLA soldiers killed at least two civilians and reportedly burned down 47 homes. And in Rumbek Central county, intermittent clashes between a Dinka Agar subclan and security forces which started on 23 October reportedly resulted in approximately 100 deaths. In an incident in Eastern Equatoria on 6 December, 28 people from Lafon county were reportedly killed, including women and children, by unknown armed men from Torit county.

B. Conflict-related sexual violence

28. During the reporting period, incidents of conflict-related sexual violence were reported throughout the country, especially in places where there was a heavy presence of armed actors. UNMISS continued to document incidents of conflict-related sexual violence in the context of large-scale hostilities and cyclical intercommunal clashes.

29. An initial UNMISS investigation into the SPLM/A in Opposition attack on Bentiu, Unity State, on 29 October 2014 revealed that women had been abducted by the opposition and several of them were reportedly raped during the attack. State officials alleged that at least 20 women were abducted from Souq sabi, Dere and Lich University and taken to Guit and Nhialdiu. Allegations have also been made that SPLM/A in Opposition used rape as a punishment for suspected government sympathizers.

30. In another incident, in December 2014, three out of a group of 30 women were reportedly raped by SPLA soldiers while proceeding to a village located near the protection of civilians site in Bentiu, after soldiers who had allegedly asked them to join them, then shot at the group. UNMISS is also concerned about persisting challenges in protecting women in protection of civilians sites. At several locations, attacks on women, including rape, were reported to have taken place inside the sites, or as the women attempted to leave or re-enter them.

31. Incidents of sexual violence have also been reported in the context of intercommunal violence. In Lakes State, women and children have reportedly been used as proxies for revenge, including through rape. In Rumbek East, the allegation that the paramount chief of the Guony clan had been murdered by the Thuyic clan reportedly ignited a wave of retaliatory attacks, including the reported rape of women and children. Reports received by UNMISS also indicated that security forces responding to an incident of intercommunal violence in Torit county, on 6 December 2014, had committed human rights violations, including sexual violence against women.

32. In October 2014, the Special Representative of the Secretary-General on Sexual Violence in Conflict and the President of South Sudan signed a joint communiqué, which outlined steps the Government will take to prevent and address sexual violence. The agreement, which provides for technical support from the United Nations Team of Experts on the Rule of Law and Sexual Violence in Conflict, contains priority areas for action, including ensuring medical, psychosocial and legal assistance to victims, addressing impunity, security and justice sector reform, and ensuring that crimes of sexual violence are explicitly addressed in the peace process and as an aspect of the 23 January 2014 Cessation of Hostilities Agreement.

C. Children and armed conflict

33. Children continued to bear the brunt of the violence in South Sudan through large-scale displacements and lack of access to services such as health care and education. Furthermore, UNMISS continued to receive reports of the recruitment of children, the military use and occupation of schools and hospitals and other grave violations and abuses perpetrated by parties to the conflict. Child soldiers have been observed in Bentiu, Malakal and Kuajok. Between September and November 2014, the United Nations Children's Fund (UNICEF) documented more than 70 incidents of grave violations against children, affecting more than 2,000 children.

34. During the reporting period, SPLA issued new orders prohibiting the recruitment and use of children by SPLA as well as the occupation of schools. On 8 October 2014, UNICEF submitted to the Government and SPLA a list of 20 schools reportedly used by

SPLA for military purposes. On 29 October, the Government, assisted by the United Nations, launched a campaign entitled "Children, Not Soldiers", aimed at addressing the recruitment and use of children in armed conflict. On 5 December, the United Nations, led by UNICEF, signed a memorandum of understanding with a rebel group, the South Sudan Democratic Movement/South Sudan Defence Army (SSDM/SSDA)-Cobra faction, based largely in Jonglei, on the release and reintegration of approximately 3,000 children associated with the group.

35. On a positive note, the National Legislative Assembly passed a bill for the ratification of the African Charter on the Rights and Welfare of the Child, with no reservations.

D. Administration of justice

36. South Sudan continued to face persistent challenges in the administration of justice in accordance with international human rights standards. The conflict has undermined the rule of law across the country, resulting in a marked absence of prosecutors and judges not only in conflict-affected states but also in states not affected by fighting, such as in the Greater Equatoria and Greater Bahr el Ghazal regions. As a result, serious cases, including murders, continued to be addressed through traditional customary courts which are ill-equipped and do not meet international human rights standards. Customary courts often impose unlawful detention or other sentences, without proper procedural safeguards. Detention imposed by customary courts, beyond their jurisdiction, was observed, particularly in Eastern Equatoria, Northern Bahr el Ghazal and Western Equatoria.

37. Arrests and detention by security agencies, especially by the National Security Services (NSS) and SPLA, continued to be a problem. Numerous cases were reported to UNMISS of NSS arbitrarily arresting and detaining individuals "on grounds of national security". Besides going beyond the scope of their legal and constitutional authority, NSS were found to have engaged in other violations involving arbitrary arrest, notably the arrest and detention of individuals without informing them of the reason, or the detention of individuals in non-gazetted places, where their family and lawyers were unable to gain access to them.

38. UNMISS regularly monitored detention facilities across the country and its reports indicated that conditions of detention have not changed since the previous reporting period, still falling short of international standards. Proxy detentions, arbitrary detentions, detention for acts not amounting to crimes, and prolonged detentions, as well the detention of juveniles with adults, remained of deep concern. UNMISS has also observed incidents where executives at low levels of government interfere with the law enforcement process by ordering arrests and detention.

39. On 9 September 2014, a 14-year-old boy was allegedly taken into custody by SPLA soldiers in front of the UNMISS protection of civilians site in Bentiu, Unity State. Similarly, in August, several women were reportedly arbitrarily detained by SPLA in Juba and physically assaulted while in custody. The women were released the same day, after intervention from a high-level SPLA officer.

40. Prolonged pretrial detention remained widespread in South Sudan owing to lack of capacity and resources, and sometimes because the detention was politically motivated. For example, two members of the State Legislative Assembly in Lakes State have remained in detention since 24 October 2014, allegedly for having assisted armed youth groups to resist government efforts to separate two communities, in order to reduce violence. The detainees have not been charged with a crime nor have they had access to legal counsel. On a positive note, in Aweil East county in Northern Bahr el Ghazal, following UNMISS advocacy,

25 persons who had been arbitrarily detained, including three women, were released by the county court judge on 11 December. Many of them had been in custody serving sentences issued by customary courts, despite the fact that those courts do not have legal authority to pass such sentences.

E. Freedom of expression

41. Respect for freedom of expression further deteriorated, with continuing acts of intimidation, harassment and threats against the media and journalists, mostly by NSS agents, being reported. Several editions of newspapers have been temporarily confiscated and the newspaper offices ordered to close down, radio stations have been closed, and journalists have been arrested and interrogated or harassed. This has resulted in an atmosphere of self-censorship and has increasingly undermined the exercise of freedom of expression.

42. On 16 August 2014, NSS closed Radio Bakhita, run by the Roman Catholic Church, arrested and detained its news editor, reportedly following a report, aired on 15 August, on fresh fighting in Unity State, including views from SLPM/A in Opposition sources that had been quoted in the *Sudan Tribune*. The editor was released on 19 August following pressure from national and international media associations, and the station reopened on 5 November.

43. On 10 October 2014, an SLPA spokesperson reportedly warned journalists to obtain the "correct facts" from military command before reporting on any military or security-related issues. On the same day, NSS arrested and detained a foreign journalist, who was released without charge on 15 October. On 31 October, NSS detained a photojournalist for coverage at a petrol station during a fuel crisis. On 31 October, the editor of a major daily newspaper was summoned by the police and kept in custody for several hours after a complaint had been received about one of his opinion pieces.

44. On 9 September 2014, the Office of the President reported that three media bills had been signed into law: the Media Authority Act, the Right of Access to Information Act and the Broadcasting Cooperation Act. While some portions of the laws promote human rights, the Media Authority Act retains the criminalization of defamation from the South Sudan Penal Code of 2008, making the offence punishable by a fine or up to two years in prison. With the powers to appoint and remove members of the bodies established by those laws given to the executive, the protection for journalists and media practitioners envisaged by the laws appears to be nominal.

F. Accountability

45. There were very few significant developments in the area of accountability for human rights violations and abuses, particularly those committed since the outbreak of violence in December 2013. While some accountability measures in specific individual cases were noted, including arrests and investigations in relation to the alleged killings of civilians by police in Central Equatoria and Northern Bahr el Ghazal in November 2014, in general there appeared to have been no meaningful efforts by national actors to hold perpetrators of gross violations of human rights accountable.

46. On 5 December 2014, senior officials of the Presidential Committee on Human Rights Abuses, established in January 2014 to investigate human rights violations and abuses committed by security agents and opposition forces, informed UNMISS that its report had been finalized and submitted to the President. At the same time, the Inspector General of Police of South Sudan informed UNMISS that investigations conducted by the

National Police Service into the events of December 2013 had been unable to link any police officer to human rights violations. The Inspector General indicated that the police findings had been submitted to the Presidential Committee.

47. On 8 December 2014, in Lakes State, one individual was convicted and sentenced to death by the Rumbek Central High Court for the murder of a paramount chief in Cuei-Chok Payam on 5 August, which sparked intercommunal violence in the state. Four others were acquitted of conspiracy and harbouring the offender in relation to the same incident. Unlike in the large majority of cases in the country, including death penalty cases, the defendants in those cases were represented by legal counsel.

48. While various local media houses reported other developments regarding national accountability measures, UNMISS has not been able to verify those accounts. For example, on 15 October 2014, one newspaper reported that SPLA had court-martialled, sentenced to prison and dismissed three soldiers for "indiscipline" for killing a civilian and a soldier in Juba in early 2014, which UNMISS could not confirm. Similarly, UNMISS was not able to verify a South Sudan television report on 11 October, indicating that the Presidential Committee on Human Rights had carried out additional investigations into human rights violations and abuses committed in Juba in December 2013. UNMISS noted that, even when such investigations involved violations against civilians, SPLA has been reluctant to remit the accused persons to civilian courts, in accordance with national law.

49. UNMISS also engaged with leaders of SPLM/A in Opposition to monitor and advocate accountability. On 24 November 2014, UNMISS human rights officers met with the leadership of SPLM/A in Opposition in Unity State to inquire about allegations of killings of civilians and the abduction of women during the rebel attack on Bentiu on 29 October. The leaders denied targeting civilians and claimed that the women who had reportedly been abducted had been taken to their husbands in opposition-controlled areas.

50. With respect to international accountability measures, UNMISS facilitated field visits by the African Union Commission of Inquiry on South Sudan, including to Bor and Malakal. The Commission of Inquiry finalized its report and presented it to the Chairperson of the African Union Commission, who disclosed that the report would be discussed by the Peace and Security Council of the African Union.

51. On 18 September 2014, the Government of the United States of America imposed sanctions, including travel bans and asset freezes, on two military commanders — Major General Santino Deng Wol of the SPLA Third Division, and former Fourth Division commander Major General James Koang Chol, who had defected to SPLM/A in Opposition in December 2013. On 30 October, the Government of Canada also imposed sanctions on SPLM/A in Opposition commander Major General Peter Gadet and the head of the Presidential Guard, Major General Marial Chanuong.

IV. Technical assistance

52. In May 2014, the Security Council, by its resolution 2155 (2014), brought an end to the functions of UNMISS that related to supporting the Government of South Sudan in capacity-building, and refocused the Mission's tasks on four major priorities: the protection of civilians; monitoring and investigating human rights; contributing to the conditions for the delivery of humanitarian assistance; and supporting the implementation of the Cessation of Hostilities Agreement signed in January 2014.

53. While focusing on monitoring, investigation, verification and reporting on human rights violations and abuses, UNMISS continued to take action to address violations where possible, including by conducting human rights sensitization with non-State partners, in

particular in Unity, Lakes, Jonglei and Western Equatoria States. Those sensitization initiatives included training for journalists, women's groups, religious and civil society organizations, hospital social workers, returnees and primary and secondary school students. UNMISS also engaged in human rights awareness-raising activities and dispute resolution mechanisms with community leaders and displaced persons in its protection of civilians sites. In accordance with Security Council resolution 2155 (2014), emphasis was placed on women's right to participate fully in decision-making and the prevention and resolution of conflict.

54. On 25 November 2014, as part of efforts to address gender-based violence, including conflict-related sexual violence, UNMISS and its partners launched the annual 16 Days of Activism against Gender-Based Violence Campaign, including radio talk shows and awareness-raising activities throughout the country.

55. On 11 December 2014, UNMISS, in collaboration with the United Nations Educational, Scientific and Cultural Organization, trained 15 media observers in Juba on information-gathering and human rights investigation methodology. Similar training focusing on investigating, reporting and advocacy has been carried out for civil society organizations.

V. Conclusion

56. **One year into the conflict in South Sudan, the human rights situation there remains grave. Though the scale and severity of the conflict have recently declined, there has been persistent fighting, notably in Unity, Upper Nile and Jonglei States, accompanied by gross human rights violations and abuses, including killings, conflict-related sexual violence and large-scale displacements of civilians. With very little meaningful progress having been made towards a political resolution of the crisis, there is a risk that the armed conflict may intensify, with a further devastating impact on civilians. In addition to the conflict, intercommunal violence continues to be of serious concern. There also continues to be a notable deterioration in the exercise of freedom of expression, with incidents of threats and intimidation of civil society, detention of journalists and censorship of the media.**

57. **While both forces engaged in the fighting have continued to commit serious human rights violations and abuses and violations of international humanitarian law, neither side has taken any concrete steps to date to hold perpetrators to account or to seriously pursue justice and redress for the victims. In the light of the marked failure by both parties to the conflict to hold perpetrators accountable, it is hoped that the African Union Commission of Inquiry on South Sudan, established to investigate ongoing crimes and human rights violations and abuses, will publish its findings soon as a step towards ensuring meaningful accountability for human rights violations and abuse and ending the cycle of violence and impunity in the country.**

VI. Recommendations

58. **The recommendations the United Nations High Commissioner for Human Rights made in his report to the Human Rights Council at its twenty-seventh session remain largely unimplemented and continue to apply. The High Commissioner reiterates those recommendations, broadening their scope, and adds new ones.**

To the Government of South Sudan

59. **Immediately cease fighting and all forms of violence, and refrain from committing human rights violations and violations of international humanitarian law, including those amounting to international crimes, such as extrajudicial killings, ethnically targeted violence, conflict-related sexual violence, including rape, as well as gender-based violence, recruitment and use of children, enforced disappearances and arbitrary arrests and detention.**

60. **Comply with all agreements signed under the auspices of the Intergovernmental Authority on Development (IGAD), including the January 2014 Cessation of Hostilities Agreement and the Agreement to Resolve the Crisis in South Sudan (9 May 2014), and fully commit itself to the Addis Ababa negotiation process, including by allowing the deployment and strengthening of the IGAD Monitoring and Verification Mechanism across all conflict-affected areas.**

61. **Ensure prompt, credible, transparent, independent, impartial and comprehensive investigations into allegations of violations of international humanitarian and human rights law, including alleged international crimes committed in Juba in the initial stages of the conflict in mid-December 2013 and the April 2014 attacks on civilians in Bentiu and Bor. Ensure accountability for the perpetrators of such violations in accordance with international standards and provide adequate remedies and redress for the victims.**

62. **Cease activities impeding the right to freedom of expression, including the harassment and censorship of the media and civil society, the summoning and detention of journalists, and the issuing of orders to suspend publications or seize newspapers.**

To the Sudan People's Liberation Movement/Army in Opposition and other armed actors

63. **Immediately cease fighting and all forms of violence, and ensure that its forces do not commit human rights violations and abuses and violations of international humanitarian law, including those amounting to international crimes, such as extrajudicial killings, ethnically targeted violence, conflict-related sexual violence, including rape, as well as gender-based violence, recruitment and use of children, enforced disappearances and arbitrary arrests and detention.**

64. **Comply with all agreements signed under the auspices of IGAD, including the January 2014 Cessation of Hostilities Agreement and the Agreement to Resolve the Crisis in South Sudan (9 May 2014), and fully commit themselves to the Addis Ababa negotiation process, including by allowing the deployment and strengthening of the IGAD Monitoring and Verification Mechanism in areas under their control.**

65. **Commit themselves to abiding by international humanitarian law, including desisting from attacks on civilians, civilian objects and humanitarian facilities, ceasing indiscriminate and disproportionate attacks and ensuring the facilitation of humanitarian access to territories under their control.**

66. **Facilitate the conduct of prompt investigations into allegations of serious violations of international humanitarian law and human rights violations and abuses committed by commanders, fighters and affiliated militia forces, including the unlawful killings of civilians in Bentiu in mid-April 2014.**

To the African Union Peace and Security Council

67. **Ensure that the findings of the African Union Commission of Inquiry on South Sudan, established to investigate human rights violations and abuses committed during the conflict, are published and widely disseminated, and that its recommendations are implemented.**

To the Intergovernmental Authority on Development

68. **Ensure that any final peace agreement includes a commitment to address past violations and abuses, combat impunity and ensure accountability in accordance with international standards, and to promote human rights, and that it precludes the granting of amnesties for alleged perpetrators of international crimes and gross human rights violations and abuses.**

To the United Nations Mission in South Sudan

69. **Continue to ensure regular and timely public reporting of the human rights situation in South Sudan as mandated by Security Council resolution 2155 (2014).**

70. **Within the parameters of its refocused mandate, continue to support capacity-building programmes in South Sudan, in particular training on human rights education and awareness-raising for civil society groups.**

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Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Technical assistance and capacity-building

Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Guinea*

Summary

In the present report, submitted pursuant to Human Rights Council resolution 25/35 of 14 June 2014, the United Nations High Commissioner for Human Rights describes the human rights situation in Guinea in 2014 and makes recommendations to address diverse human rights problems. The High Commissioner also provides information on the activities of the country office of the High Commissioner for Human Rights in Guinea.

During 2014, action by the Government was dominated by efforts to control the Ebola virus. The case fatality rate, the measures adopted by the authorities to tackle the virus and the decisions by some neighbouring countries to close their borders affected the exercise of fundamental rights such as freedom of movement, the right to education, the right to health and the right to work.

The Government continued its efforts to consolidate national institutions. Reform of the judicial system continued, and was marked by the establishment of the Supreme Council of Justice and the implementation of the special status for magistrates to ensure their independence and significantly improve their salary.

However, progress in combating impunity among members of the defence and security forces has been very limited. Moreover, prison overcrowding is still a major problem, in particular because of the almost systematic use of pretrial detention. Nor has there been any progress in efforts to combat violence against women and girls, and female genital mutilation is still practiced.

* Late submission

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Guinea is readying itself for a Presidential election in 2015 in an extremely difficult socioeconomic and health situation. In such complex circumstances, it is essential to foster and ensure the dialogue and to prevent instability and all forms of violence.

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I. Introduction

1. In the present report, submitted pursuant to Human Rights Council resolution 25/35 of 28 March 2014 the United Nations High Commissioner for Human Rights assesses the human rights situation in Guinea in 2014. He also provides information on the activities of the country office of the High Commissioner for Human Rights in Guinea and makes a number of recommendations to the Government and the international community.

II. Main political, security, social and economic developments

2. In January 2014, the new National Assembly was formed following the parliamentary elections of September 2013. Guinea is currently preparing for its 2015 presidential elections at a time of severe difficulties in the economic, health and social spheres. The pace of the dialogue between the Government and the opposition is slow. The opposition parties have presented a list of demands, which includes the restructuring of the Independent National Electoral Commission and annulment of the legislation it had put in place, the recruitment of a new technical operator and the resumption of the 2014 general population and housing census.

3. In view of this tense situation, it is essential to both encourage and ensure political dialogue as the controversy over the electoral system could fuel inter-ethnic violence. It is vital that the presidential elections be held in a peaceful and transparent manner.

4. In early 2014, an epidemic of Ebola virus broke out in Guinea and quickly spread to other West African countries. To deal with the spread of the virus, the Government established an institutional and operational framework for disease control and adopted a national response programme. It also set up an interministerial committee, a national coordination committee and district-level technical coordination committees in the areas affected by the outbreak. These measures were accompanied by awareness-raising campaigns in the areas concerned, including in rural districts.

5. Nevertheless, the Ebola virus continued to spread rapidly, ultimately affecting all areas of the country. Both the outbreak and the restrictive measures taken to prevent it from spreading — including border closures by neighbouring countries — have caused a substantial reduction in State revenue as well as the loss of jobs and income for many people. Growth forecasts for 2014 have been revised downwards from 4.6 per cent to 2.3 per cent and, as a result, the Government has been forced to make substantial cuts to basic social services budgets.

6. During 2014, Guinea also experienced social unrest and violence, including lynchings. With regard to social protests, the main demands related to better living conditions and improvements to basic social services. There were occasional demonstrations by women and young people in the suburbs of Conakry between February and August 2014, with protesters demanding water, power supplies and improved sanitation in their neighbourhoods. The demonstrations were marred by the deaths of two people – a civilian and a trainee gendarme.

III. Situation of human rights

7. The Government took steps in 2014 to ensure greater promotion and protection of human rights. The Ministry of Justice continued its reform of the judicial system with the establishment of the Supreme Council of Justice and a commission on criminal law reform;

in addition, the decree giving effect to the special status of judges came into force (see A/HRC/25/44 and Corr.1, para. 57). Nevertheless, the recurrence of violence is of concern, especially where it relates to localized demands or combating the Ebola virus. Cases of arbitrary arrest, illegal detention and ill-treatment persist. Furthermore, the mob lynchings reported in Haute Guinée and Guinée Forestière, as well as continued impunity for perpetrators of certain types of human rights violations, expose the inherent weaknesses in the judicial system.

A. The impact of the Ebola virus on social and economic rights

1. Right to health

8. The right to the enjoyment of the highest attainable standard of physical and mental health is recognized under article 12 of the International Covenant on Economic, Social and Cultural Rights. It is further guaranteed under article 15 of the Guinean Constitution. With support from technical and financial partners, treatment and transit centres offering free health care have been set up in Guinée Forestière and in the capital city. The international community — including the United Nations, the European Union, the African Union, the Economic Community of West African States (ECOWAS) and a number of individual States — has made every effort to provide Guinea with substantial support in order to help combat the virus.

9. Despite these efforts, the virus was able to spread quickly due to a lack of awareness about Ebola, the delay in establishing a communication strategy, weaknesses in the health-care system and hostility towards officials raising awareness about the virus in local communities. By mid-December 2014, more than 2,000 people in Guinea had been infected with Ebola and more than 1,000 people had died.

10. In October 2014, during its consideration of the report of Guinea (CEDAW/C/GIN/7-8), the Committee on the Elimination of Discrimination against Women encouraged the Government to seek support from the international community to address the imbalances in the health-care system caused by the outbreak, overcome budgetary issues and establish adequate health-care infrastructures. The Committee expressed concern about the impact of the outbreak on the lives and health of women, who are often the first victims of the virus. Furthermore, the Committee recommended that Guinea make provision for gender issues in its Ebola prevention and control programme, in consideration of women's unequal access to health care (CEDAW/C/GIN/CO/7-8).

2. Right to education

11. Fearing an escalation of the rate of infection in schools and universities, and with the school year due to start at the beginning of October, on 4 September 2014 the Government postponed the start of the school year indefinitely. On 19 January 2015, the Government determined that classes could resume, albeit on a temporary basis.

3. Right to food

12. The right to food is guaranteed under article 11 of the International Covenant on Economic, Social and Cultural Rights. The Government has made continual efforts to improve the diet of the population, and a policy to boost agricultural and rice production was launched in 2011. Farming has been heavily subsidized, with the Government importing agricultural inputs and machinery in order to promote greater food self-sufficiency for the country as a whole. Agriculture is the main source of income for close to 80 per cent of the population.

13. To contain the spread of the Ebola virus, the Government has taken steps to restrict population movement and closed a number of local markets. Following the state of emergency declared by the Government, in September 2014 the local authorities in Guéckédou, Guinée Forestière, decided to close the weekly markets held in six sub-prefectures bordering Sierra Leone and Liberia.[1] Although justified in the context of the epidemic, these measures have had a considerable impact on the right to food, with quarantined persons particularly badly affected as they do not receive adequate food aid from the authorities. The weekly market closures had been lifted at the time of finalizing this report.

14. According to a statement issued on 11 November 2014 by the United Nations Special Rapporteur on the right to food, more than a million people in the countries hit hardest by the Ebola crisis were facing the prospect of starvation because of the toll the epidemic had taken on food production.[2]

4. Right to work

15. The right to work is guaranteed under article 23 of the Universal Declaration of Human Rights, article 6 of the International Covenant on Economic, Social and Cultural Rights and article 20 of the Guinean Constitution.

16. At the same time as the new civilian authorities came into power, major mining group investments were being withdrawn or put on hold as a result of the Ebola crisis. Thousands of workers lost their jobs, particularly in the town of Fria where the closure of the aluminium smelter has pushed hundreds of employees into poverty and insecurity.

17. Following the Ebola outbreak, numerous multinational organizations evacuated their employees and wound down their business activities in the country. For example, 400 of the 500 Rio Tinto personnel based in Beyla have been transferred to other areas of the country or abroad; the Societé des mines de fer de Guinée (SMFG) evacuated all of its international employees and placed at least 133 of its Guinea nationals on leave. At the time of drafting this report, business activities on the whole remained greatly reduced.

18. The Ebola outbreak has had a significant effect on women's right to work, with those in the agricultural sector particularly badly affected as a result of the disruption to production structures as well as the market and border closures. In this regard, the Committee on the Elimination of Discrimination against Women recommended that Guinea adopt specific measures to promote alternative income-generating opportunities for women active in the agricultural sector and to ensure food security (CEDAW/C/GIN/CO/7-8, para. 45).

B. Civil and political rights

1. Right to life

19. In the previous report (A/HRC/25/44 and Corr.1, para. 57), The United Nations High Commissioner for Human Rights recommended that the Government should continue to reform the security sector and strengthen the resources of the security forces in order to ensure greater respect for the international principles applicable to the maintenance and restoration of law and order. The High Commissioner also recommended that the

[1] This Declaration was made by the President of the Republic of Guinea on 13 August 2014.

[2] Office of the United Nations High Commissioner for Human Rights, press release dated 11 November 2014.
www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15276&LangID=E.

authorities ensure that the security forces were trained in human rights and international humanitarian law so as to prevent violations of the right to life, especially during operations relating to demonstrations.

20. The right to life is one of the fundamental and inalienable rights of all individuals. It is protected under article 3 of the Universal Declaration of Human Rights, article 6 of the International Covenant on Civil and Political Rights and article 6 of the Guinean Constitution.

21. Violations of the right to life involving security forces were documented by the OHCHR country office in Guinea during 2014. In February 2014, a student suspected of trafficking and using of cannabis was arrested in Fria, a town 160 kilometres north of Conakry, by officers of the communal police force on the orders of two gendarmes. When he resisted arrest, he was beaten and dragged along the ground for several metres. As a result of this ill-treatment, he died shortly after arriving at the gendarmerie.

22. In February 2014, in response to the young man's death, young people from Fria vandalized and set fire to the local gendarmerie and town hall and broke down the prison gates, allowing the prisoners to escape.

23. The regional and prefectural authorities deployed security forces at the scene. A commission of inquiry comprising a justice of the peace, the gendarmerie commander and the central police commissioner of Fria was established on 1 March 2014 to determine responsibility for the young man's death. The commission questioned 19 people, 8 of whom were municipal police officers and 11 young people suspected of organizing and carrying out the burning and looting of public property. However, the gendarmerie captain, who was identified by the victim's family and by witnesses as the main person behind the young student's arrest, never responded to the many court summonses issued to him. His superiors opposed his appearance in court and assigned him to a different town.

24. On 16 September 2014, a delegation comprising the governor of the Nzérékoré administrative region, the prefect, the director of the regional hospital, the Nzérékoré regional director of health, the Womey sub-prefect, religious leaders and journalists set out for Womey, a village 50 km from Nzérékoré, to raise awareness among the local population about the Ebola virus. The group was attacked by some local people, and eight of its members were killed. According to reports, the victims' bodies were thrown into the septic tank at the local primary school. After this incident, defence and security forces were deployed to secure the scene and to arrest suspects. Fourteen people were arrested and placed in pretrial detention at the Nzérékoré central prison. Non-governmental organizations reported looting by the security forces responsible for securing the village. The OHCHR office in Guinea met with the Minister of Justice to request an investigation to shed light on the murder of the delegation members and the allegations of looting.

25. In relation to the murders, 53 persons were arrested and the case was referred to the Court of Appeal. The village was occupied by the defence and security forces for two months, during which the inhabitants of Womey reportedly fled to the bush for fear of reprisals. Despite appeals from civil society and the intervention of the Minister of Human Rights and Public Liberties, the soldiers continued to occupy Womey, preventing the villagers from returning to their homes. The army withdrew at the end of November 2014 after a hunger strike organized by opposition leaders and members of civil society. The OHCHR office in Guinea later received reports that six women had been raped by the defence and security forces. The office staff met with these women and with the Nzérékoré judicial authorities to request an investigation to determine who was responsible.

2. Right to liberty and security

26. The right to liberty and security is enshrined in article 3 of the Universal Declaration of Human Rights and guaranteed under article 9 of the International Covenant on Civil and Political Rights and article 9 of the Guinean Constitution. It affords individuals an essential guarantee of freedom from arbitrary detention by ensuring that they will not be deprived of their liberty except on grounds specified by law and in accordance with the relevant established procedures.

27. In 2014, the OHCHR office in Guinea visited 107 places of detention and observed numerous cases of illegal arrest and arbitrary detention, both in gendarmeries and police stations and in prisons run by regional authorities.

28. According to the findings of OHCHR, numerous illegal arrests are made during demonstrations and are followed by arbitrary detention. In February 2014, during the above-mentioned events in Fria, the police arrested young men at random, either on the street or at their homes, and sometimes late at night.

29. In addition, OHCHR noted cases in which persons were arrested for acts committed by their family members. In May 2014, a woman was prosecuted for the offence of concealment, which had been committed by her son, who was wanted by the courts. She was remanded in custody in Nzérékoré central prison, in violation of article 55, paragraph 2, of the Guinean Criminal Code, which provides that an offender's spouse, parents or relatives up to the fourth degree of affinity may not be prosecuted for harbouring a criminal. OHCHR also found that persons who could not honour their civil commitments, such as the payment of debts, were arrested and detained at the Télimélé central police station and by the No. 3 mobile gendarmerie squad in Matam, Conakry. In all these cases, intervention by OHCHR resulted in the detainees' release.

30. Violations of the right to liberty and security particularly affect persons in pretrial detention on felony charges. Under Guinean law, the Assize Court should convene regularly every four months. In addition, the Code of Criminal Procedure establishes a maximum duration for pretrial detention of 24 months for the most serious crimes. However, a person awaiting trial on charges of rape has been held in Kindia central prison for the past nine years. More than 20 other persons detained on felony charges have been in pretrial detention for periods of more than 2 to 6 years. Since August 2011, five officers of the Guinean military, who were arrested in connection with the attack on the President's residence on 19 July 2011, have been held in Conakry central prison without trial or renewal of the detention order against them. They were charged with crimes against State security, murder and attempted murder by the indictment division of the Conakry court, and their case was transferred to a military court that has yet to be established, before which they are to stand trial for desertion and failure to obey orders, which carry maximum penalties of 2 and 6 months' imprisonment respectively under the Criminal Code.

31. In addition, persons in pretrial detention for misdemeanours, for which the maximum duration is 4 months under the Criminal Code, are being held in various prisons, particularly in Conakry, for longer periods, usually without the renewal of the detention order by a judge.

32. Faster processing of the case files of suspects held in police custody and persons in pretrial detention, as well as the use of alternative measures to detention, would help resolve the problem of prison overcrowding and to improve prison conditions.

33. Between January 2012 and June 2014, staff of the OHCHR office in Guinea visited 30 prisons in all eight administrative regions of the country, where a total of 3,110 persons

are being held. These regular visits have made it possible to conduct a thorough review[3] of the operation of the criminal justice system, including the criminal police, the public prosecution service, judges and the prison system. Members of the police force and the judiciary work under extremely poor conditions, due to a lack or complete absence of infrastructure, trained personnel and adequate logistical resources. Public documents and infrastructure were either completely destroyed or severely damaged by angry citizens during the labour strikes that took place in 2007 in 30 out of 33 prefectures in the country.

34. The OHCHR office in Guinea found that prisons were dilapidated and unsanitary and that there was a lack of privacy due to overcrowding. International standards on detention, particularly the Standard Minimum Rules for the Treatment of Prisoners,[4] are very poorly respected. In some prisons, such as those in Boffa and Boké, the latrines are located inside small and overcrowded cells. As for the right to health, under an agreement signed in 2004 between the Ministry of Health and the Ministry of Justice, each prison should have a health-care worker assigned to it. The implementation of this agreement, has however, had very little impact and does not permit professional consultations or the dispensing of medicines to detainees, who must pay for their own medication.

3. Respect for physical integrity

35. Respect for a person's physical and moral integrity is an inalienable right and must not be restricted under any circumstances. Torture is formally prohibited under article 5 of the Universal Declaration of Human Rights, article 7 of the International Covenant on Civil and Political Rights and article 6 of the Guinean Constitution.

36. Torture and ill-treatment have long been commonplace in Guinea, particularly in places of detention, where torture was the usual means of obtaining confessions and information. The Criminal Code neither criminalizes nor defines torture. The Government should intensify its efforts, in particular by speeding up the current legislative reform to incorporate the Convention against Torture into Guinean positive law and by ratifying the Optional Protocol to the Convention, so as to enable the Subcommittee on Prevention of Torture to conduct unannounced visits. The Committee against Torture, in its concluding observations on the initial report of Guinea, adopted on 20 May 2014 (CAT/C/GIN/CO/1), expressed concern about the absence of legislation on torture, and stressed that this could lead to impunity for perpetrators of torture.

4. Freedom of movement

37. The freedom to move about freely, to leave any country, including one's own, and to return to one's own country, is a fundamental freedom guaranteed under article 13 of the Universal Declaration of Human Rights and article 12 of the International Covenant on Civil and Political Rights. Article 10, paragraph 4, of the Guinean Constitution provides that: "All citizens have the right to establish residence and travel throughout the territory of the Republic, and to enter and leave it freely."

38. On 13 August 2014, the President declared a state of health emergency and announced restrictions on gatherings and on the freedom of movement, including in the areas most affected in Guinée Forestière along the borders with Liberia and Sierra Leone. The decree established a cordon sanitaire to be manned by health workers and security and

[3] Report on conditions of detention in Guinea, issued in October 2014 by the OHCHR office in Guinea, available at www.ohchr.org/Documents/Countries/GN/ReportofGuinea_October2014.pdf.

[4] Adopted by the first United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held in Geneva in 1955 and approved by the Economic and Social Council in its resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977.

defence forces at all points of entry into Guinea. The movement of persons is restricted and is subject to health monitoring measures at the various points of entry at land borders, seaports and airports. All health workers and security and defence forces have been mobilized to combat the disease. A temperature-monitoring system has been set up at Conakry airport, and anyone with an abnormally high body temperature is prohibited from travelling.

39. These restrictions on freedom of movement, while justified, limit the exercise of certain rights, as described above. They may well limit people's participation in the 2015 presidential elections.

5. Administration of justice

40. The Government has made commitments to improve the administration of justice and to improve conditions of detention. With support from national and international partners, including OHCHR, reform of the main pieces of criminal legislation and of legislation on the organization of the judicial system has been initiated. The Criminal Code, the Code of Criminal Procedure and the Military Justice Code are all being reviewed with the aim of bringing them into line with the State's commitments under the international and regional human rights instruments to which it is a party.

41. The Supreme Council of Justice, which is responsible for, inter alia, safeguarding judges' careers, was established in March 2014, and the President of the Republic enacted the Act on the Special Status of Judges in June of that year. In July 2014, the Head of State also approved a document on judicial reform prepared by the National Steering Committee for Judicial Reform.

42. Two training workshops were organized by OHCHR in Kindia and Labé from 22 to 29 October 2014, at which 107 judges and judicial officials (criminal police officers, response unit officers, lawyers, prison staff and bailiffs) in Basse Guinée and Moyenne Guinée were informed about their roles and responsibilities for promoting and protecting human rights. These sessions provided an opportunity for participants to reflect on the failures and shortcomings of the judicial system and to consider appropriate solutions for strengthening the rule of law.

43. However, the absence or lack of adequate infrastructure, the lack of trained and specialized staff and the insufficient budget allocated to the Ministry of Justice continue to have a major effect on the administration of justice. In addition to these factors, which are attributable to the State, defendants regularly report corruption among some judges. Many detainees interviewed by the staff of the OHCHR office in Guinea claimed that they were in prison because they were unable to pay the sums of money demanded by criminal police officers or judges for their release.

6. Combating impunity

44. In the previous report, the High Commissioner for Human Rights recommended that the Government should strengthen the fight against impunity, in particular by prosecuting the alleged perpetrators of the human rights violations committed on 28 September 2009 (A/HRC/25/44 and Corr.1, para. 57 (a)). Likewise, on the eve of the fifth anniversary of the 28 September massacres in Conakry, the High Commissioner urged the Guinean authorities to take immediate and concrete steps to move forward the investigation and to prosecute those responsible for the human rights violations, including the acts of murder, rape and

enforced disappearance committed by security forces against peaceful demonstrators.[5] In reality, very little is being done to combat impunity.

45. In particular, many human rights violations involving gendarmerie and army officers go unpunished. For example, proceedings against the gendarmes involved in cases of torture and ill-treatment documented by OHCHR since 2012 are still being blocked, because the gendarmerie commanders concerned have failed to respond to all court summonses, claiming that they have not received authorization from their superiors.

46. Marginal progress has been made regarding the events of 28 September 2009, with new charges brought and hearings held. Over the course of 2014, about 400 victims were heard by the investigating judges handling the case. In July 2014, Captain Moussa Dadis Camara, head of the military junta at the time of the events, was heard as a witness by a judge from Burkina Faso whose judicial assistance had been requested by the Guinean judiciary. In September 2014, the Minister of Sports at the time of the events was also heard as a witness.

47. However, more than five years after the events, victims and their dependents are still waiting for the authorities to take decisive action, for example by placing the defence and security forces officials accused in the case on inactive duty. Impunity also prevails with regard to the events in Zogota in August 2012, the communal violence that broke out from 15 to 18 July 2013 and the attacks in Womey on 16 September 2014.

7. Violence against women and girls

48. In the previous report, the High Commissioner for Human Rights recommended that the Government should strengthen the fight against all forms of discrimination, especially sexual violence against women and girls, with particular emphasis on combating sexual violence and female genital mutilation (A/HRC/25/44 and Corr.1, para. 57 (d)).

49. During the reporting period, the Government has made considerable efforts to combat discrimination and violence against women. In October 2014, the Committee on the Elimination of Discrimination against Women noted that significant progress had been made, in particular by the adoption of laws, policies and action plans to combat discrimination and violence against women. The Committee expressed concern, however, over the persistence of stereotypes and harmful practices affecting women, such as forced marriage, domestic violence and female genital mutilation, including female circumcision.

50. Guinea should intensify its efforts to combat such practices, especially female circumcision, to which 97 per cent of women and girls in the country are subjected. A positive first step, which has set a precedent, is the conviction by the Conakry Third Court of First Instance of a female circumciser, who was a repeat offender, to a suspended sentence of 2 years' imprisonment and the payment of 1 million Guinean francs.[6]

51. In addition, impunity still persists in cases of gender-based violence. Indeed, the OHCHR office in Guinea has noted that judicial personnel show a generally tolerant attitude towards sexual offences and sexual violence once proceedings reach the investigation phase. For example, two cases of gang rape were settled amicably in Nzérékoré prefecture under pressure from the local community; the judiciary made no attempt to pursue legal proceedings against the suspects. In another case of rape committed in the village of Nianpara, the suspect was placed on remand, then under judicial supervision, before being returned to the supervision of the investigating judge, then

[5] OHCHR, press release issued on 26 September 2014, available on the OHCHR website at www.ohchr.org/EN/countries/AfricaRegion/Pages/GNIndex.aspx.

[6] Judgement issued by the Mafanco Court of First Instance in Matam, Conakry on 17 July 2014.

transferred to Nzérékoré central prison before being released in confused circumstances. In Dubréka, 55 kilometres from Conakry, a member of the defence forces charged with raping a minor was released and placed under judicial supervision by the investigating judge.

52. There have, however, been some signs of improvement. In August 2014, a soldier of the Presidential Guard was detained by the gendarmerie and brought to court after a medical certificate had been issued confirming the rape of two girls under 10 years of age. He was placed in detention at the Conakry central prison pending trial.

IV. Cooperation to promote and protect human rights

A. Strengthening of cooperation with the international human rights protection mechanisms

1. Creation of an inter-ministerial human rights committee

53. The delays in the submission by Guinea of its initial and periodic reports to the United Nations treaty bodies were attributable to the indifference of the authorities, for whom human rights issues were not a priority. Thanks to the political will of the current authorities and the support provided by the Office of the High Commissioner for Human Rights, an inter-ministerial human rights committee (responsible for drafting reports for submission to the treaty bodies) was created by a decision of the Prime Minister on 21 July 2014.

2. Cooperation with the treaty bodies

54. The OHCHR office in Guinea helped the Government to submit its initial report to the Committee against Torture, by providing technical support for analysing the data collected on the basis of the relevant international standards (see CAT/C/GIN/1).

55. The OHCHR office in Guinea also provided support to the National Directorate for Children of the Ministry of Social Action, in connection with efforts to finalize the two initial reports on the implementation of the first two Optional Protocols to the Convention on the Rights of the Child: the initial report under the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict and the initial report under the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.

3. Universal periodic review

56. In January 2015, the human rights situation in Guinea was considered by the Human Rights Council as a part of the universal periodic review. In 2010, during the first review of Guinea, the Government accepted 105 of the 114 recommendations formulated.

57. From 15 to 19 September 2014, the Office of the High Commissioner for Human Rights, in conjunction with the Ministry of Human Rights and Civil Liberties, held a capacity-building workshop for the members of the Inter-Ministerial Committee and representatives of civil society. The workshop addressed the preparation and submission of initial and periodic reports to the various treaty bodies and for the universal periodic review, and the implementation of the recommendations and observations within the participatory process.

B. Integration of human rights into security sector reform

1. Implementation of new Government policies

58. In September 2014, the Government adopted a national priority action strategy as a part of judicial reforms. The overall aim of the national priority action strategy is to strengthen the rule of law and improve governance in the field of justice. Moreover, the strategy, which relies on the consolidation of the rule of law and the reform of the prison system, should eventually ensure the independence of the judiciary and facilitate access to justice. The Office of the High Commissioner for Human Rights, together with other agencies of the United Nations system operating in Guinea, provided technical support for the preparation of that strategy.

59. On 30 June 2014, the President of the Republic of Guinea set up the Provisional National Reconciliation Commission, co-chaired by the Head Imam of Conakry, El-hadj Mamadou Saliou Camara, and the Archbishop of Conakry, Monsignor Vincent Coulibaly. The Commission's task is to discuss and draw up a national consultation programme to gauge public opinion on a national reconciliation process. The Office of the High Commissioner for Human Rights provided technical support to recruit 25 members of the staff of the Provisional Commission, including 8 project coordinators, 8 assistants and 8 community outreach workers.

2. Legislative reforms

60. Other priorities of the Government include the ongoing preparation of a bill on the organization of the judicial system and a new policy on the organization of the prison system. The Office of the High Commissioner for Human Rights helped to raise awareness among the members of the National Steering Committee for Judicial Reform about the integration of human rights into that important process.

61. The process of reforming the security sector, which was initiated in 2010 with the support of the international community, intensified during 2014, with special emphasis on the monitoring, by democratic, civilian actors, of the defence and security forces. A code of conduct for the army, drawn up on the basis of respect for human rights, was prepared and disseminated across the country, with the support of the Office of the High Commissioner for Human Rights. Thanks to the support of the Office of the High Commissioner and of the United Nations Development Programme, information on the Military Justice Code was also disseminated among the various units of the armed forces based in the country's four military regions. This outreach activity enabled the members of the defence and security forces better to understand the contents and scope of the various provisions of the Code and the process whereby military personnel guilty of human rights violations are punished.

62. As a part of the implementation of a project to strengthen community policing, supported by the Peacebuilding Fund, the Office of the High Commissioner for Human Rights is involved in the integration of human rights modules into the basic training curricula of the defence and security forces, including in police and gendarmerie training facilities and military academies and training centres.

C. Support for civil society bodies

63. In 2014, the Office of the High Commissioner for Human Rights organized seven coordination and cooperation meetings with civil society bodies on the human rights situation in Guinea. The meetings made it possible to strengthen the capacity of NGOs to perform their roles and responsibilities for the promotion and protection of human rights, advocacy to ensure that human rights issues are taken into account when working to

prevent and combat Ebola virus and the submission of periodic reports to the treaty bodies and for the universal periodic review.

64. The OHCHR office in Guinea has provided support to and helped build the technical capacities of associations of victims of Camp Boiro (under the First Republic of Guinea), the large-scale strikes of 2007, and the massacres of 28 September 2009. In 2014, the OHCHR office in Guinea held five practical workshops on the inclusion of a gender perspective in the transitional justice process.

65. On 26 June 2014, the Office of the High Commissioner for Human Rights, in conjunction with the Ministries of Human Rights and Justice and civil society bodies, organized activities in Conakry to mark the United Nations International Day in Support of Victims of Torture. More than 150 persons took part in discussions on the role of the State and civil society in the implementation of the recommendations of the Committee against Torture, the incorporation into domestic legislation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, efforts to make the justice system more accessible and efforts to combat impunity and gender-based violence.

V. Recommendations

A. Recommendations addressed to the Government

66. **The High Commissioner for Human Rights recommends that the Government of Guinea:**

(a) Continue efforts to combat impunity, particularly through effective prosecution of alleged perpetrators of human rights violations involved in the events of 28 September 2009, the incidents that took place in Zogota in August 2012, the intercommunal violence of 15 to 18 July 2013, the attacks in Womey on 16 September 2014 and the numerous cases of torture pending before the courts;

(b) Ensure that any measures taken as a part of the effort to control the Ebola virus are based on respect for human rights;

(c) Strengthen the resources of the security forces in order to enable them to perform their public security role in accordance with the relevant applicable international principles;

(d) Take the necessary measures to ensure security and transparency during the Presidential elections, while respecting electoral rights and freedoms, including the freedom of movement, the freedom of expression and the freedom to protest peacefully;

(e) Strengthen efforts to combat all forms of discrimination, particularly gender-based stereotypes, and safeguard the right of victims to prosecute perpetrators of discrimination through the courts;

(f) Strengthen cooperation with the treaty bodies and the universal periodic review mechanism, especially through the implementation of their recommendations.

B. Recommendations addressed to the international community

67. **The High Commissioner for Human Rights recommends that the international community:**

(a) Continue to provide the Government of Guinea with the assistance necessary to enable it to combat the spread of the Ebola virus;

(b) Continue to support the reform of the security and justice sectors;

(c) Provide the Government of Guinea with the assistance necessary in order to reduce the level of poverty and help improve the realization of social and economic rights.